

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

EXQUISITE DELITES, INC. D/B/A
EXQUISITE DELITES CAT,

Plaintiff,

vs.

TWIN CITY FIRE INSURANCE
COMPANY, a foreign corporation,

Defendant.

CASE NO.:

NOTICE OF REMOVAL

Defendant TWIN CITY FIRE INSURANCE COMPANY (“Defendant”), by and through undersigned counsel and pursuant to 28 U.S.C. § 1446, hereby files its Notice of Removal of the action now pending in the Superior Court of Gwinnett County, State of Georgia, Civil Action File No. 23-A-05250-5, styled as *Exquisite Delites Inc d/b/a Exquisite Delites Cat v. Twin City Fire Insurance Company, a foreign corporation* (the “civil action”), respectfully showing this Honorable Court as follows:

PROCEDURAL BACKGROUND

1. On June 15, 2023, Plaintiff Exquisite Delites, Inc. d/b/a Exquisite Delites Cat (“Plaintiff”) filed the civil action in the Superior Court of Gwinnett County,

State of Georgia. Copies of the Summons and Complaint filed by Plaintiff, and all other filings in the civil action, are attached hereto as Exhibit “1.” In the complaint, Plaintiff asserts a count for breach of contract and a count for bad faith pursuant to O.C.G.A § 33-4-6, in connection with a first party property insurance claim. (Complaint ¶¶ 23-31, 32-40).

2. On June 15, 2023, the Clerk of the Superior Court of Gwinnett County issued a Summons for Plaintiff to serve upon Defendant.
3. On June 29, 2023, the Gwinnett County Sheriff’s Office filed a Sheriff’s Entry of Service (Ex. 1., pg. 262) in the civil action stating that on June 21, 2023, it effected service of the Summons and Complaint upon Defendant’s registered agent, CT Corporation System.
4. By filing this Notice of Removal, Defendant does not waive its right to personal jurisdiction, service of process, or sufficiency of process.

COMPLETE DIVERSITY EXISTS

5. Pursuant to 28 U.S.C. §§ 1332(a), 1441(b), the Court has jurisdiction over this action because there is complete diversity of citizenship between Plaintiff and Defendant.
6. Plaintiff is a corporation duly organized and existing under the laws of the State of Georgia, with its principal place of business located at 2261 Troutdale

Drive, Decatur, GA, 30032. Plaintiff is therefore properly deemed a citizen of the state of Georgia.

7. Defendant is a corporation duly organized and existing under the laws of the State of Indiana, with its principal place of business in the State of Connecticut. Defendant is therefore properly deemed a citizen of the states of Indiana and Connecticut.
8. Therefore, complete diversity exists between Plaintiff and Defendant.

THE AMOUNT IN CONTROVERSY IS SUFFICIENT TO ESTABLISH DIVERSITY JURISDICTION

9. In the civil action, Plaintiff alleges that it made a demand on Defendant to pay the insurance claim for \$173,325.00 less previous payments and the deductible and that Defendant has denied Plaintiff's claim. (Complaint ¶¶ 15-22). Defendant has paid \$64,392.40 to Plaintiff in connection with the insurance claim, which is less the applicable deductible.
10. Because the amount in controversy in the civil action will exceed \$75,000.00, exclusive of interest, costs, and attorney's fees, the amount in controversy requirement necessary for removal pursuant to 28 U.S.C. §§ 1332(a), 1441(b) is satisfied.

REMOVAL TO THIS COURT IS PROCEDURALLY PROPER

11. Venue is proper in this district pursuant to 28 U.S.C. § 1446(a) because the United States District Court for the Northern District of Georgia embraces the venue where the civil action is pending.
12. Further, removal is timely pursuant to 28 U.S.C. § 1446(b) because Defendant filed this Notice of Removal within thirty days of service on June 21, 2023.
13. Pursuant to 28 U.S.C. § 1446(d), Defendant has provided written notice to all adverse parties and has filed a copy of this Notice of Removal with the Clerk of the Superior Court of Gwinnett County, State of Georgia.

WHEREFORE, Defendant Twin City Fire Insurance Company respectfully submits this matter to this Court's jurisdiction and removes the civil action to this Court.

Respectfully submitted this 20th day of July, 2023.

**WILSON ELSER MOSKOWITZ
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CERTIFICATE OF SERVICE

This is to certify that on this date I filed and served the foregoing **NOTICE OF REMOVAL** via e-mail and the Court's electronic filing system, which will send electronic notification to the following counsel of record:

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Dated: July 20, 2023

**WILSON ELSER MOSKOWITZ
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